

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION
3:16-cv-40-FDW
(3:11-cr-404-FDW-DSC-1)**

ZONTA TAVARUS ELLISON,)	
)	
Petitioner,)	
)	
vs.)	ORDER
)	
UNITED STATES OF AMERICA,)	
)	
Respondent.)	
_____)	

THIS MATTER comes before the Court on Petitioner’s “Motion for Relief under Rule 60(b)(6) and 10(c).” (Doc. No. 13).

On January 21, 2016, Petitioner filed the underlying motion to vacate, set aside, or correct sentence under 28 U.S.C. § 2255. On April 27, 2016, this Court denied and dismissed Petitioner’s motion to vacate. (Doc. No. 5). By order dated October 20, 2016, the Fourth Circuit Court of Appeals denied Petitioner’s motion for a certificate of appealability and dismissed Petitioner’s appeal. (Doc. No. 10). On February 6, 2018, Petitioner filed the pending motion, in which he seeks to have this Court set aside its prior judgment because Petitioner contends that he never received notice from the Fourth Circuit when it dismissed his appeal by order dated October 20, 2016, and he was therefore barred from filing a timely motion for rehearing en banc with the Fourth Circuit, or from filing a petition for writ of certiorari with the Supreme Court.

The Court will deny Petitioner’s motion, as the relief he seeks cannot be cured by this Court setting aside its prior judgment. Petitioner must file a motion for extension of time or otherwise seek relief directly from the Fourth Circuit Court of Appeals in order to obtain the relief he

appears to seek through this motion.

IT IS, THEREFORE, ORDERED that:

(1) Petitioner's Motion for Relief under Rule 60(b)(6) and 10(c), (Doc. No. 13), is

DENIED.

Signed: February 26, 2018

A handwritten signature in black ink, appearing to read "Frank D. Whitney", written over a horizontal line.

Frank D. Whitney
Chief United States District Judge

